

AMENDED IN SENATE MARCH 23, 1998

SENATE BILL

No. 1838

Introduced by Senator Kopp

February 19, 1998

An act to amend Sections 374 and 701.8 of the Public Utilities Code, relating to electric restructuring.

LEGISLATIVE COUNSEL'S DIGEST

SB 1838, as amended, Kopp. Public utilities: electric restructuring: BART.

Existing law requires the Public Utilities Commission to begin providing electric utility customers direct access to electric suppliers not later than January 1, 1998, and for direct access to be completed for all customers by January 1, 2002. Existing law requires any electric utility regulated by the commission that owns and operates transmission and distribution facilities that deliver electricity at one or more locations to the ~~BART~~ *San Francisco Bay Area Rapid Transit District's (BART)* system, to deliver to BART preference power purchased from a federal power marketing agency or its successor.

This bill would exempt the delivery of that preference power from ~~any direct access tariff~~ *statutes that provide for direct transactions and from commission regulations, orders, and tariffs, that implement direct transactions*, and would make a related ~~change~~ *changes*. *The bill would authorize BART to elect to obtain electric power from multiple sources, as specified.* Because, under existing law, a violation of ~~that provision~~ *these provisions* would be a crime, the bill would

impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 374 of the Public Utilities Code
2 is amended to read:

3 374. (a) In recognition of statutory authority and past
4 investments existing as of December 20, 1995, and subject
5 to the firewall specified subdivision (e) of Section 367, the
6 obligation to pay the uneconomic costs identified in
7 Sections 367, 368, 375, and 376 shall not apply to the
8 following:

9 (1) One hundred ten megawatts of load served by
10 irrigation districts, as hereafter allocated by this
11 paragraph:

12 (A) The 110 megawatts of load shall be allocated
13 among the service territories of the three largest
14 electrical corporations in the ratio of the number of
15 irrigation districts in the service territory of each utility
16 to the total number of irrigation districts in the service
17 territories of all three utilities.

18 (B) The total amount of load allocated to each utility
19 service area shall be phased in over five years beginning
20 January 1, 1997, so that one-fifth of the allocation is
21 allocated in each of the five years. Any allocation which
22 remains unused at the end of any year shall be carried
23 over to the succeeding year and added to the allocation
24 for that year.

25 (C) The load allocated to each utility service territory
26 pursuant to subparagraph (A) shall be further allocated
27 among the respective irrigation districts within that

1 service territory by the California Energy Resources
2 Conservation and Development Commission. An
3 individual irrigation district requesting such an allocation
4 shall submit to the commission by January 31, 1997,
5 detailed plans that show the load that it serves or will
6 serve and for which it intends to utilize the allocation
7 within the timeframe requested. These plans shall
8 include specific information on the irrigation districts'
9 organization for electric distribution, contracts, financing
10 and engineering plans for capital facilities, as well as
11 detailed information about the loads to be served, and
12 shall not be less than eight megawatts or more than 40
13 megawatts. Provided, however, any portion of the 110
14 megawatts that remains unallocated may be reallocated
15 to projects without regard to the 40 megawatts limitation.
16 In making such an allocation among irrigation districts,
17 the Energy Resources Conservation and Development
18 Commission shall assess the viability of each submission
19 and whether it can be accomplished in the timeframe
20 proposed. The Energy Resources Conservation and
21 Development Commission shall have the discretion to
22 allocate the load covered by this section in a manner that
23 best ensures its usage within the allocation period.

24 (D) At least 50 percent of each year's allocation to a
25 district shall be applied to that portion of load that is used
26 to power pumps for agricultural purposes.

27 (E) Any load pursuant to this subdivision shall be
28 served by distribution facilities owned by, or leased to, the
29 district in question.

30 (F) Any load allocated pursuant to paragraph (1) shall
31 be located within the boundaries of the affected irrigation
32 district, or within the boundaries specified in an
33 applicable service territory boundary agreement
34 between an electrical corporation and the affected
35 irrigation district; additionally, the provisions of
36 subparagraph (C) of paragraph (1) shall be applicable to
37 any load within the Counties of Stanislaus or San Joaquin,
38 or both, served by any irrigation district that is currently
39 serving or will be serving retail customers.

1 (2) Seventy-five megawatts of load served by the
2 Merced Irrigation District hereafter prescribed in this
3 paragraph:

4 (A) The total allocation provided by this paragraph
5 shall be phased in over five years beginning January 1,
6 1997, so that one-fifth of the allocation is received in each
7 of the five years. Any allocation which remains unused at
8 the end of any year shall be carried over to the succeeding
9 year and added to the allocation for that year.

10 (B) Any load to which the provision of this paragraph
11 is applicable shall be served by distribution facilities
12 owned by, or leased to, Merced Irrigation District.

13 (C) A load to which the provisions of this paragraph
14 are applicable shall be located within the boundaries of
15 Merced Irrigation District as those boundaries existed on
16 December 20, 1995, together with the territory of Castle
17 Air Force Base which was located outside of the district
18 on that date.

19 (D) The total allocation provided by this paragraph
20 shall be phased in over five years beginning January 1,
21 1997, with the exception of load already being served by
22 the district as of June 1, 1996, which shall be deducted
23 from the total allocation and shall not be subject to the
24 costs provided in Sections 367, 368, 375, and 376.

25 (3) To loads served by irrigation districts, water
26 districts, water storage districts, municipal utility
27 districts, and other water agencies which, on December
28 20, 1995, were members of the Southern San Joaquin
29 Valley Power Authority, or the Eastside Power Authority;
30 provided, however, that this paragraph shall be
31 applicable only to that portion of each district or agency's
32 load that is used to power pumps which are owned by that
33 district or agency as of December 20, 1995, or
34 replacements thereof, and is being used to pump water
35 for district purposes. The rates applicable to these
36 districts and agencies shall be adjusted as of January 1,
37 1997.

38 (4) The provisions of this subdivision shall no longer be
39 operative after March 31, 2002.

1 (5) The provisions of paragraph (1) shall not be
2 applicable to any irrigation district, water district or
3 water agency described in paragraph (2) or (3).

4 (6) Transmission services provided to any irrigation
5 district described in paragraph (1) or (2) shall be
6 provided pursuant to otherwise applicable tariffs.

7 (7) Nothing in this chapter shall be deemed to grant
8 the commission any jurisdiction over irrigation districts
9 not already granted to the commission by existing law.

10 (b) To give the full effect to the legislative intent in
11 enacting Section 701.8, the costs provided in Sections 365,
12 367, 368, 370, 375, and 376 shall not apply to the load served
13 by preference power purchased from a federal power
14 marketing agency, or its successor, pursuant to Section
15 701.8 as it existed on January 1, 1996, provided the power
16 is used solely for the customer's own systems load and not
17 for sale. The costs of this provision shall be borne by all
18 ratepayers in the affected service territory,
19 notwithstanding the firewall established in subdivision
20 (e) of Section 367.

21 (c) To give effect to an existing relationship, the
22 obligation to pay the uneconomic costs specified in
23 Sections 367, 368, 375, and 376 shall not apply to that
24 portion of the load of the University of California campus
25 situated in Yolo County that was being served as of May
26 31, 1996, by preference power purchased from a federal
27 marketing agency, or its successor, provided the power is
28 used solely for the facility load of that campus and not,
29 directly or indirectly, for sale.

30 SEC. 2. Section 701.8 of the Public Utilities Code is
31 amended to read:

32 701.8. (a) To ensure that the commission regulated
33 electric utilities do not operate their transmission and
34 distribution monopolies in a manner that impedes the
35 ability of the San Francisco Bay Area Rapid Transit
36 District (BART District) to reduce its electricity cost
37 through the purchase and delivery of preference power,
38 electrical corporations shall meet the requirements of
39 this section.

1 (b) Any electric utility regulated by the commission
2 that owns and operates transmission and distribution
3 facilities that deliver electricity at one or more locations
4 to the BART District's system shall, upon request by the
5 BART District, and without discrimination or delay, use
6 the same facilities to deliver preference power purchased
7 from a federal power marketing agency or its successor.
8 ~~The direct access tariff of any electric utility regulated by~~
9 ~~the commission that owns and operates transmission and~~
10 ~~distribution facilities that deliver electricity at one or~~
11 ~~more locations to the BART District's system is not~~
12 ~~applicable to the delivery to BART of preference power~~
13 ~~purchased from a federal power marketing agency or its~~
14 ~~successor.~~

15 (c) Where the BART District purchases electric
16 power at more than one location, at any voltage, from an
17 electric utility under tariffs regulated by the commission,
18 the utility shall bill the BART District for usage as though
19 all the electricity purchased at transmission level voltages
20 were metered by a single meter at one location and all the
21 electricity purchased at subtransmission voltages were
22 metered by a single meter at one location, provided that
23 any billing for demand charges would be based on the
24 coincident demand of transmission and distribution
25 metering.

26 (d) If, on or after January 1, 1996, the BART District
27 leases or has agreed to lease, as special facilities, utility
28 plants for the purpose of receiving power at transmission
29 level voltages, an electric utility regulated by the
30 commission may not terminate the lease without
31 concurrence from the BART District.

32 *(e) When the BART District elects to have delivered*
33 *pursuant to subdivision (b), preference power purchased*
34 *from a federal power marketing agency, or its successor,*
35 *neither Sections 365 and 366, and any commission*
36 *regulations, orders, or tariffs, that implement direct*
37 *transactions, are applicable, nor is the BART District an*
38 *electricity supplier. Neither the commission, nor any*
39 *electric utility that delivers the federal power to the*

1 *BART District, shall require that an electricity supplier*
2 *be designated as a condition of the delivery of that power.*

3 *(f) The BART District may elect to obtain electric*
4 *power from the following multiple sources at the same*
5 *time:*

6 *(1) Electric power delivered pursuant to subdivision*
7 *(b).*

8 *(2) Electric power supplied by one or more direct*
9 *transactions.*

10 *(3) Electric power from any electric utility regulated*
11 *by the commission that owns and operates transmission*
12 *and distribution facilities that deliver electricity at one or*
13 *more locations to the BART District's system.*

14 SEC. 3. No reimbursement is required by this act
15 pursuant to Section 6 of Article XIII B of the California
16 Constitution because the only costs that may be incurred
17 by a local agency or school district will be incurred
18 because this act creates a new crime or infraction,
19 eliminates a crime or infraction, or changes the penalty
20 for a crime or infraction, within the meaning of Section
21 17556 of the Government Code, or changes the definition
22 of a crime within the meaning of Section 6 of Article
23 XIII B of the California Constitution.

24 Notwithstanding Section 17580 of the Government
25 Code, unless otherwise specified, the provisions of this act
26 shall become operative on the same date that the act
27 takes effect pursuant to the California Constitution.